

REMARKS

Claims 2 - 3, 5 - 7, 9, 11 - 27, 29 - 30, and 32 are pending in the application. Claims 1, 4, 8, 28, and 31 have been cancelled without prejudice. Claim 10 was cancelled in an earlier response. Claims 2, 5 - 7, 9, 11 - 13, 16 - 20, 24, and 30 have been amended.

Claims 1 - 9 and 11 - 32 were rejected under 35 USC §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention because the term "a few seconds" is indefinite. The limitation has been eliminated from the claims. Thus, the claims are not indefinite.

Claims 1, 2, 4, 5, 8, 9, 11, 17, 18, 28, and 30 - 32 were rejected under 35 USC §103(a) as being obvious over US Patent No. 6,431,177 (*Sieggen*). The Examiner acknowledges that *Sieggen* does not explicitly state that the thermal capacity of its extinguisher closed end is selected to ensure that embers of a cigarette or a cigar will be extinguished within a few seconds. The Examiner believes that *Sieggen's* extinguisher meets the limitation of "a few seconds" because ambient air is not allowed into the *Sieggen* device to fuel combustion.

Further, the Examiner acknowledges that *Sieggen* fails to expressly teach that the thermal capacity of the closure body is selected to ensure that when a cigar or a cigarette is stubbed out in the recess of the closure body, the temperature of its outer surface will not rise above 50° Celsius. The Examiner asserts that because *Sieggen* indicates that the heat is not felt by the use, this means that the heat of the outer surface of the closure body will not rise above 50° Celsius. Applicant respectfully disagrees. The relevant disclosure by *Sieggen* is found from Column 2, Line 57 to Column 3, Line 30.

Sieggen does not teach or suggest an ash collector with all the limitations of independent Claim 11. What the Examiner regards as the closure body is composed by a first hollow cylindrical member 20 preferably constructed from plastic material and a second hollow cylindrical member 30 having an open end 32 and a closed end 34 and having a length that is shorter and a diameter that is slightly smaller than the length and diameter of the first member 20. Partitions 36 serve as a stop for the second member inserted in the first member, resulting in air spaces between the closed ends of the first and second member. The air spaces inhibit a heat exchange between the closed ends 24 and 34. Thus, the combination of the first and second hollow cylinders of *Sieggen* cannot be equated with solid closure body of the inventive ash collector. The closure body is a solid and does not have air gaps.

Heat capacity of a body is the amount of heat that the body is able to store if its temperature is raised by 1°. The heat capacity is proportional to the mass of the body.

The second hollow cylindrical member 30 of *Sieggen* corresponds to the closure body. A glowing cigarette can be inserted into the second hollow cylindrical member of *Sieggen*, the second hollow cylindrical body of *Sieggen* is thin walled and has a low heat capacity. Thus, it can become very hot, especially where a user takes a deep draw on the cigarette immediately prior to inserting it into the second member. Therefore, *Sieggen* teaches air spaces between the closed ends thereof "is necessary" to avoid the outer hollow member 20 becoming too hot. See, e.g. *Sieggen* at Column 3, Lines 24 – 30. Accordingly, *Sieggen* allows the inner hollow member which is in contact with the glowing cigarette to become "very hot" and protects the user from the heat by providing the plurality of air spaces between the closed ends 24, 34 of the two hollow members.

In contrast to the teaching of *Sieggen*, in the inventive ash collector utilizes a solid plug having a reasonable mass, and thus having a reasonable heat capacity which guarantees that the plug will not assume an outside surface temperature above 50° Celsius whenever a cigarette or cigar is extinguished by pressing it against the solid plug. Due to the high heat capacity of the solid plug it is unnecessary to provide the plug with an outer shell providing an air space between the shell and the plug to restrict heat flow to the outside of the shell as is taught by *Sieggen*.

For the reasons discussed above, *Sieggen* does not teach or suggest an ash collector with all the limitations of independent Claim 11. Thus, Claim 11 is a patentable as are claims 2 – 3, 5 – 7, 9, 12 – 27, 29 – 30, and 32 that depend therefrom.

Claims 3, 13 – 16 and 29 were rejected under 35 U.S.C. §103(a) as being obvious over *Sieggen* in view of US Patent No. 3405719 (*Lustbader*) and states that it would be obvious to design an ash collector with a closure body that is made from a metal with high thermal conductivity. The Examiner acknowledges that *Sieggen* does not teach a closure body made of any particular metal. As discussed above, *Sieggen* does not teach or suggest an ash collector with all the limitations of independent Claim 11. Claims 6 and 7 depend from Claim 11 and thus contain all the limitations of Claim 11. *Lustbader* does not make up the deficiencies of *Sieggen*. Thus, claims 3, 13 – 16 and 29 are patentable.

Claims 6 and 7 were rejected under 35 U.S.C. §103(a) as being obvious over *Sieggen* in view of US Patent No. 5862809 (*Nicotra*). The Examiner acknowledges that *Sieggen* does not teach a recess in the closure body having a particular shape. The Examiner that asserts that it would be obvious to modify an ash collector with a closure body that is used as a cigarette/cigar snuffer. As discussed above, *Sieggen* does not teach or suggest an ash collector with all the limitations of independent Claim 11. Claims 6 and 7 depend from Claim 11 and thus contain all the limitations of Claim 11.

Nicotra does not make up the deficiencies of *Sieggen*. Thus, claims 6 and 7 are patentable.

The Examiner rejected Claim 12 under 35 U.S.C. §103(a) as being obvious over *Sieggen* in view of US Patent No. 5499634 (*Herrmann*). The Examiner acknowledges that *Sieggen* does not teach a clip attached to the closure body and asserts that it would be obvious to modify the ash container with a clip so that it would be upright at all times. Claim 12 depends from independent Claim 11 and thus has all the limitations of Claim 11. As discussed above, *Sieggen* does not teach or suggest an ash collector with all the limitations of Claim 11. *Herrmann* does not make up the deficiencies in *Sieggen*. Thus, Claim 12 is patentable.

Claims 19 - 23 were rejected under 35 U.S.C. §103(a) as being obvious over *Sieggen* in view of US Patent No. 4,996,995 (*Kojima*). The Examiner acknowledges that *Sieggen* does not teach an ash collector comprising an integrated flashlight and asserts that it would be obvious to modify the ash container to include a light or flashlight. Claims 19 - 23 depend from independent Claim 11 and thus have all the limitations of Claim 11. As discussed above, *Sieggen* does not teach or suggest an ash collector with all the limitations of Claim 11. *Kojima* does not make up the deficiencies in *Sieggen*. Thus, Claim 12 is patentable.

Claims 24 - 27 were rejected under 35 U.S.C. §103(a) as being obvious over *Sieggen* in view of US Patent No. 5,605,226 (*Hernlein*). The Examiner acknowledges that *Sieggen* does not teach a comprising an integrated lighter and asserts that it would be obvious to modify the ash collector to include a lighter as a matter of convenience for the smoker. Claims 24 - 27 depend from independent Claim 11 and thus have all the limitations of Claim 11. As discussed above, *Sieggen* does not teach or suggest an ash collector with all the limitations of Claim 11. *Hernlein* does not make up the deficiencies in *Sieggen*. Thus, Claims 24 - 27 are patentable.

CONCLUSION

Applicant asserts that all of the objections have been obviated, and now therefore respectfully requests withdrawal of those objections and an allowance of this application.

PETITION FOR AN EXTENSION OF THE TERM

Applicant petitions the Commissioner of the United States Patent and Trademark Office to extend the time for reply to the Office action dated 14 February 2006 for three-month(s) from 14 May 2006 to 14 August 2006. Submitted herewith is a check for \$510 to cover the cost of the extension. Any deficiency or overpayment should be charged or credited to our deposit account number 04-2219, referencing our docket number 13745.

Respectfully submitted,

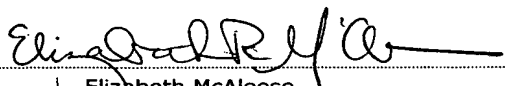


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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited as First Class Mail with the United States Postal Service in an envelope addressed to: Commissioner of Patents PO Box 1450, Alexandria, VA 22313-1450, on 18 July 2006.


Elizabeth McAleese